

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Thursday, July 6, 2023

Hearing Room 301

2:00 PM

1: -

Chapter

#0.00 Unless other arrangements have been made in advance with the Court, all appearances for this calendar will be via Zoom and not via Court Call. [See Judge Kaufman's posted procedures titled "phone/video appearances" on the Court's webpage.]
All parties participating in these hearings may connect from the zoom link listed below. This service is free of charge. You may participate using a computer or telephone.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

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Chapter

Docket 0

Tentative Ruling:

- NONE LISTED -

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1:22-11504 Drita Pasha Kessler

Chapter 11

**#1.00 Travelers Property Casualty Company of America's
Objection to Debtors Homestead Exemption Claim**

fr. 4/6/23; 5/11/23(stip); 5/25/23; 6/9/23

Docket 40

Tentative Ruling:

The Court intends to continue the hearing and set a supplemental briefing schedule.

Pursuant to the Court's order entered on June 13, 2023 [doc. 117], any demand to cross-examine Drita Pasha Kessler ("Debtor"), Fr. Daniel Keohane or any other person who had signed a declaration in support of or in response to the objection to Debtor's claim of homestead exemption (the "Objection"), filed by Travelers Property Casualty Company of America [doc. 40], was to be filed by June 29, 2023. As of July 5, 2023, no party has filed or served any such demand. Consequently, it appears that Fr. Keohane will not be subject to cross-examination.

On May 3, 2023, Debtor filed her declaration in response to the Objection (the "Kessler Declaration") [doc. 87], stating, in relevant part, that "[s]ometime in late 2018, [Fr. Daniel] Keohane offered me the [real property located at 8117 Aldea Ave., Lake Balboa, CA, 91406 (the "Property")] for purchase. On or about January 15, 2019, I and Keohane agreed that I would purchase [the Property]." Kessler Declaration, ¶ 5.

Submitted with the Kessler Declaration, as Exhibit A, is a document which Debtor contends memorializes an agreement between Debtor and Fr. Keohane, pursuant to which Fr. Keohane allegedly agreed to sell the Property to Debtor (the "Statement of Purchase"). Fr. Keohane allegedly signed the Statement of Purchase on May 23, 2019, and Candy Rodriguez, a California Notary Public, Commission # 2151031, allegedly notarized Fr. Keohane's signature that day. *Id.*

On May 18, 2023, Travelers filed the Declaration of Daniel Keohane in response to the Kessler Declaration (the "Keohane Declaration") [doc. 99]. In his declaration, Fr. Keohane states, among other things, that he "never sold [the Property] to [Debtor],"

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Drita Pasha Kessler

Chapter 11

and that he "do[es] not remember going to a notary to sign [sic] sale document regarding the sale of [the Property]." Keohane Declaration, ¶ 12. Fr. Keohane further states that he "ha[s] no recollection of the hand written offer attached to [the Kessler Declaration] as Exhibit A," and that he "never received the \$50,000.00 referenced in the hand written note." *Id.*, ¶ 13. In addition, Fr. Keohane represents that he "never received the sale price of \$600,000.00." *Id.* Finally, Fr. Keohane asserts that:

[Debtor]...told me she had found some money in Montenegro and needed my help to bring the money to Los Angeles. She said she could not bring the money into the United States, and she needed [Fr. Keohane] to help her....[Debtor] took [Fr. Keohane] to Citi Bank in Los Angeles and opened a bank account in [Fr. Keohane's] name, Account [ending in 6791], but she said the money in the bank account would be hers, so she took complete control of this above referenced bank account, including the passwords, the statements, and the credit card associated with the bank account. She put all the money in and took all the money out. She made all the credit card charges associated with the above referenced Citi Bank account.

Id., ¶ 11.

On July 2, 2023, Debtor's counsel Leonard Pena filed his declaration (the "Pena Declaration") [doc. 124], in which he states that he mailed Ms. Rodriguez a certified letter requesting to see her notary journal entry relating to the Statement of Purchase. *See* Pena Declaration, ¶¶ 2-3. Mr. Pena represents that he received an email from Ms. Rodriguez with an attachment showing that on May 23, 2019, a person that identified himself as Daniel Keohane appeared before Ms. Rodriguez and executed the Statement of Purchase in front of her. *Id.*, ¶¶ 4-5. Mr. Pena further asserts that the attachment to the July 1, 2023 email shows Fr. Keohane's address, his driver's license number and his fingerprint. *Id.*, ¶ 4.

"Under § 522(o) of the [Bankruptcy] Code, the amount of a state homestead exemption is reduced to the extent that the value of the exemption is attributable to nonexempt property that the debtor converted into the homestead within 10 years of filing for bankruptcy, if the conversion was made with the intent to hinder, delay, or defraud a creditor. *In re Addison*, 540 F.3d 805, 810 (8th Cir. 2008) (internal quotations omitted). A party objecting to a homestead exemption under 11 U.S.C. §

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Chapter 11

522(o) must show:

(a) an increase in the value of the debtor's homestead; (b) **that the increase was "attributable" to the disposition of nonexempt assets**; (c) that the disposition of the nonexempt assets was made with the intent to hinder, delay, or defraud a creditor; and (d) that the disposition occurred during the ten-year period ending on the date the debtor's bankruptcy petition was filed.

In re Stanton, 457 B.R. 80, 91 (Bankr. D. Nev. 2011) (emphasis added).

Pursuant to 11 U.S.C. § 522(p)—

(1) a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate \$189,050 in value in—

(A) real or personal property that the debtor or a dependent of the debtor uses as a residence...

(2) (B) For purposes of paragraph (1), **any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.**

11 U.S.C. § 522(p)(2)(B) (emphasis added).

Fr. Keohane denies selling the Property to Debtor, testifies that he never received any money from the alleged sale and denies that the Citibank account ending in 6791 was used by him or opened for his use.

The Court intends to continue the hearing on the Objection and set a schedule for the parties to submit supplemental briefing, based on the evidence which has been presented to the Court, on whether the elements of 11 U.S.C. §§ 522(o) and/or (p) are satisfied such that Debtor's entitlement to a homestead exemption should be eliminated or reduced.

The parties should be prepared to discuss potential dates for the briefing schedule as

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well as a continued hearing date.

Chapter 11

Party Information

Debtor(s):

Drita Pasha Kessler

Represented By
Leonard Pena

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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Chapter 11

#2.00 Status conference re: chapter 11 subchapter V case

fr. 2/16/23; 4/13/23; 6/8/23; 6/15/23

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Drita Pasha Kessler

Represented By
Leonard Pena

Trustee(s):

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